

From: Abrams, Hugh <habrams@Sidley.com>
Sent: Friday, March 09, 2012 6:43 AM
To: Doug.Muehlhauser; Alan.Laquer; Claire.Stoneman; John.Holcomb; KMOB.Nomadix; Mark.Lezama; Perry.Oldham
Cc: Plimack, Michael; Nomadix_JDG@orrick.com; Chatterjee, Neel (NON-SIDLEY PERSONNEL); Boren, B. C. (Baker); Cadwell, Kevin (Baker); Parker, Josh (Baker); Hatcher, Michael D.; Pritikin, David T.; Schneider, Lisa A.; Zirkle, James
Subject: RE: Nomadix v. HP, et al.: Supplemental Briefing re Severance

Doug et al.:

You will recall that the Court asked us to agree on the titles of the three primary sections of the supplemental briefs so that the parties are addressing the same issues in each of the three sections. We would propose to use the following titles in the defendants' briefs:

- I. Statement By Defendants As To Why The Court Should Sever And Separately Try The Cases Against Each Defendant
- II. Statement By Defendants As To How The Case Will Be Structured If The Case Is Not Severed
- III. Statement By Defendants As To How The Case Will Be Structured If The Case Is Severed

Please let us know if you can agree to something similar for the Nomadix brief. I have not received sign-off from all of the defendants on these labels, but I wanted to put something on the table for discussion purposes.

Also, during our telephone discussion on March 5, 2012, we informally discussed the idea of four separate trials, which would each include all issues of infringement, validity and damages, in the following separate groups: (1) Hewlett-Packard and Aruba, (2) Wayport and Superclick, (3) IBahn (and its counterclaims), and (4) Solution Inc. We would appreciate it if Nomadix would make a formal proposal for consideration of the defendants along these lines, if this is acceptable to Nomadix, which would include an identification of the patents and claims for each separate trial. A reduction in the number of claims at issue in each case would also be appreciated.

We would like to be able to present our clients with a formal proposal for their consideration as a way to resolve the issue of how the cases are to be tried, as well as resolution of the motion for reduction in claims. It would be best if we could initiate that discussion as promptly as possible.

Regards, Hugh

Hugh A. Abrams
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
Telephone: (312) 853-7017
Facsimile: (312) 853-7036
email: habrams@sidley.com

From: Doug.Muehlhauser [<mailto:Doug.Muehlhauser@kmob.com>]
Sent: Friday, February 24, 2012 5:01 PM
To: Plimack, Michael; jkrevitt@gibsondunn.com; Pritikin, David T.; Michael Sacksteder; Chatterjee, Neel (NON-SIDLEY PERSONNEL); Nomadix_JDG@orrick.com
Cc: Brenda.Lewis; Claire.Stoneman
Subject: Nomadix v. HP, et al.: proposal re: trial

Counsel:

In advance of the hearing on Monday, we wanted to explore with defendants structuring trial in a way which may resolve many of the concerns raised by defendants in their pending motion to sever.

Nomadix proposes that trial proceed sequentially against the defendants as follows: Once expert discovery is complete and dispositive and pre-trial motions are resolved, we propose that the infringement and remedies case proceed to trial against a single defendant. Nomadix would identify that defendant by a specified date in advance of the pre-trial conference. In the first such phase of trial, the main defendant would present all of its defenses, and all of the other defendants would jointly present all of their invalidity defenses. In the remaining phases of trial -- one for each of the other defendants -- each particular defendant would raise any other defenses which are unique to that defendant. After resolving post-trial motions in a given phase of trial, a schedule would be set for the pre-trial and trial of the next phase.

Please advise if defendants would be interested in sequencing the trial in this manner.

Thanks,

Doug

Douglas G. Muehlhauser
Partner
Knobbe Martens
2040 Main Street, 14th Floor
Irvine, CA 92614
949-760-0404 **Phone**
949-760-9502 **Fax**
Email: dmuehlhauser@kmob.com
Website: www.kmob.com
Knobbe Martens Olson & Bear LLP

NOTICE: This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

